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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/726,992

11/30/2000

Frederick J. Cooper

INTL-0457-P4-US
(P4575X4)

3464

7590

06/22/2005

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EXAMINER

TRAN, THAI Q

ART UNIT

PAPER NUMBER

2616

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/726,992

Applicant(s)

COOPER ET AL.

Examiner

Thai Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-16, 18-28 and 30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3 and 5-11 is/are allowed.
- 6) ☒ Claim(s) 12-16, 18-28 and 30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed March 7, 2005 have been fully considered but they are not persuasive.

In re page 6, applicant states the rejection of claim 17 is somewhat unclear because claim 17 was rejected for the same reason as claim 12, which was rejected as obvious over Daniels taken alone, and claim 17 is also rejected on the same basis that claim 6, which was rejected based on Daniels in view of Goldwasser and argues that the rejection of claim 17 is not understood because none of these cited claims have the limitations set forth in claim 17.

In response, the examiner respectfully disagrees. As stated in the last Office Action, claim 17 is rejected for the same reasons as discussed in claims 12 and 6 and claim 6 is rejected for the same reasons as discussed in claim 4. In the rejection of claim 4, the limitation of claim 17 is met by the fast forward function of Goldwasser (see col. 9, lines 18-21).

In re page 7, applicant argues that claim 29 was rejected on the same basis as claim 4, but claim 29 clearly includes limitations nowhere included in claim 4.

In response, the examiner respectfully disagrees. The claimed limitation of claim 29 "catching up with the ongoing recording of the audio stream" is anticipated by the fast forward function of Goldwasser because the fast forward would catch up with the ongoing recording of the audio stream.

Claim Objections

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2. Claim 19 is objected to because of the following informalities: the dependency of claim 19 "17" should be changed to -12--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 12-16, 18-28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniels (US 2002/0048448 A1) in view of Goldwasser et al (US 5,241,428) as set forth in the last Office Action.

Regarding claim 12, Daniels discloses a method for recording audio/video signal (Figs. 1, 5(a), and 5(b)) comprising:

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enabling an audio stream to be received (page 5, paragraph #0075) and page 7, paragraphs #0095 and #0096);

enabling the audio stream to be recorded on a random access storage unit (page 5, paragraph #0076, page 6, paragraph #0078, and page 8, paragraph #0101); and

enabling a portion of the audio stream to be retrieved from the storage unit while continuing to record the audio stream (page 5, paragraph #0076, page 6, paragraph #0076, and page 8, paragraph #101). However, Daniels does not specifically disclose the claimed article comprising a medium storing instructions and use one or more reads of the audio stream from a storage unit to playback the audio stream at a faster rate than the audio stream is being recorded.

It is noted that the capability of using microprocessor having ROM for controlling the recording and reproducing audio/video signal is old and well known in the art; therefore, Official Notice is taken.

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the well known microprocessor having ROM into Daniels's system in order to accurately controlling the system of Daniels or to simplify the process of controlling the system of Daniels.

Goldwasser et al teaches a variable-delay video recorder having the capability of "Fast forwarding" so that the playback can catching up with the recording (col. 7, lines 55-58).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the capability of fast forwarding as taught by Goldwasser et al

into Daniels' system in order to reduce the playback time of the audio signal by fast forwarding the unwanted audio portion.

Regarding claim 13, Daniels discloses the claimed radio broadcast (page 7, paragraph #0095).

Regarding claim 14, Goldwasser et al also teaches the selection of the memory types similarly is within the skill of the art, and a particular implementation might involve two memory types. For example, it might be desirable to buffer a small amount of data, e.g., one compression has been performed, and then store it on a conventional "hard disk" as employed in personal computers. Use of a buffer memory would similarly simplify multiplexing of recording and playback operations to the disk (col. 7, last paragraph).

Regarding claim 15, the claimed retrieve the portion of the audio stream shifted by time delay is met by the viewing the time shifted portion of the television program as disclosed in page 5, paragraph #0076, page 6, paragraph #0076, and page 8, paragraph #101 of Daniels and the claimed wherein after the time delay falls below a predetermined threshold, discontinue the retrieving of a portion of the audio stream from the storage unit is met by the "Fast forwarding" of Goldwasser et al.

Regarding claim 16, the claimed to initiate one or more storage operations in the audio stream into random access storage units and initiate one or more random access reads on the audio stream from the random access storage unit, wherein the one or more storage are multiplexed with one or more reads is met by the selection of the memory types similarly is within the skill of the art, and a particular implementation

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might involve two memory types. For example, it might be desirable to buffer a small amount of data, e.g., one compression has been performed, and then store it on a conventional "hard disk" as employed in personal computers. Use of a buffer memory would similarly simplify multiplexing of recording and playback operations to the disk of Goldwasser et al (col. 7, last paragraph).

Regarding claim 18, the claimed to terminate the one or more reads from the storage unit after the time delay falls below a predetermined amount of time is met by the "Fast forwarding" of Goldwasser et al.

Regarding claim 19, the claimed to access the audio stream by one or more reads offset by a time delay from the time the audio stream is stored, the time delay being variable over time is met by the viewing the time shifted portion of the television program as disclosed in page 5, paragraph #0076, page 6, paragraph #0076, and page 8, paragraph #101 of Daniels.

Regarding claim 20, the claimed to store the audio information as received, for playback in the sequence the information was received and playback any portion of the audio information while continuing to store the incoming audio information is met by the viewing the time shifted portion of the television program as disclosed in page 5, paragraph #0076, page 6, paragraph #0076, and page 8, paragraph #101 of Daniels.

Regarding claim 21, the claimed to pause the playback of audio information while continuing to store the incoming audio information is met by the viewing the time shifted portion of the television program as disclosed in page 5, paragraph #0076, page 6, paragraph #0076, and page 8, paragraph #101 of Daniels.

Regarding claim 22, the claimed to automatically playback a portion of said stored audio information having a predetermined duration is also met by the viewing the time shifted portion of the television program as disclosed in page 5, paragraph #0076, page 6, paragraph #0076, and page 8, paragraph #101 of Daniels.

Regarding claim 23, Daniels discloses a system (Figs. , 5(a), and 5(b)) comprising:

- a processor (first recording means 14 and second recording means 20 of Fig. 1, page 5, paragraph #0076);

- a random accessible memory (page 5, paragraph #0076, page 6, paragraph #0078, and page 8, paragraph #0101) coupled to said processor;

- an audio receiver (receiving means 12 of Fig. 1, page 5, paragraph #0075) coupled to said processor; and

- a storage storing instructions (controlling means 24 of Fig. 1, pages 5-6, paragraph #0077, page 6, paragraph #0078, and page 8, paragraph #0101) that enable the processor to record an audio stream onto said memory and to retrieve a portion of the audio stream from the memory while continuing to record the audio stream.

However, Daniels does not specifically discloses the claimed to cause the playback of the audio stream to catch up with the ongoing recording of the audio stream.

Goldwasser et al teaches a variable-delay video recorder having the capability of "Fast forwarding" so that the playback can catching up with the recording (col. 7, lines 55-58).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the capability of fast forwarding as taught by Goldwasser et al into Daniels' system in order to reduce the playback time of the audio signal by fast forwarding the unwanted audio portion.

Regarding claim 24, the proposed combination of Daniels and Goldwasser et al discloses all the claimed limitations except for providing an MP3 player.

The capability of compressing and decompressing audio signal in MP3 is old and well known in the art and; therefore, Official Notice is taken.

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the well known compressing/decompressing audio using MP3 in order to increase the storage capacity of the recording medium.

Regarding claim 25, Daniels also discloses the claimed wherein said system includes a radio receiver (page 7, paragraph #0095).

Claim 26 is rejected for the same reasons as discussed in claim 24 above.

Claim 27 is rejected for the same reasons as discussed in claim 24 above.

Regarding claim 28, the proposed combination of Daniels and Goldwasser et al discloses all the claimed limitations except for providing the claimed a computer system.

It is noted that the capability of using computer system having microprocessor having ROM for controlling the recording and reproducing audio/video signal is old and well known in the art; therefore, Official Notice is taken.

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the well known microprocessor having ROM into Daniels's

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system in order to accurately controlling the system of Daniels or to simplify the process of controlling the system of Daniels.

Regarding claim 30, the claimed a multiplexer to multiplex reads and writes to said memory is met by the selection of the memory types similarly is within the skill of the art, and a particular implementation might involve two memory types. For example, it might be desirable to buffer a small amount of data, e.g., one compression has been performed, and then store it on a conventional "hard disk" as employed in personal computers. Use of a buffer memory would similarly simplify multiplexing of recording and playback operations to the disk of Goldwasser et al (col. 7, last paragraph).

Allowable Subject Matter

5. Claims 1-3 and 5-11 are allowed.
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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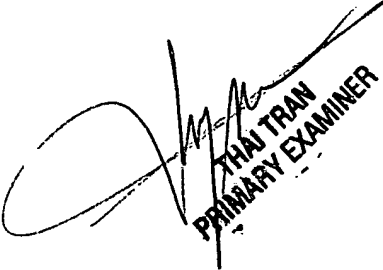
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai Tran whose telephone number is (571) 272-7382.

The examiner can normally be reached on Mon. to Friday, 8:00 AM to 5:30 PM.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTQ



THAI TRAN
PRIMARY EXAMINER